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COMMISSION ON HUMAN RIGHTS
Intergovernmental working group of experts
on human rights of migrants
Second session
Geneva, 16 - 20 February 1998

INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

Introduction

1. Pursuant to Commission on Human Rights resolution 1997/15 of 13 April 1997, entitled "Migrants and human rights", a working group consisting of five intergovernmental experts was established with a mandate to gather all relevant information on the obstacles existing to the effective and full protection of the human rights of migrants and to elaborate recommendations to strengthen the promotion, the protection and implementation of their human rights.

2. The Secretary-General, on 14 October 1997, addressed requests to Governments, competent United Nations bodies, specialized agencies, intergovernmental and non-governmental organizations for any information and comments they might wish to make in relation to the mandate of the working group.

3. At its first session held at Geneva from 17 to 21 October 1997, the working group had before it the observations and comments so far received. Those replies were subsequently issued as follows:

E/CN.4/AC.46/1997/CRP.1	SUBMISSION FROM GUATEMALA
E/CN.4/AC.46/1997/CRP.2	Submission from Guatemala
E/CN.4/AC.46/1997/CRP.3	Submission from CODEHUECA
E/CN.4/AC.46/1997/CRP.4	Submission from CODEHUECA
E/CN.4/AC.46/1997/CRP.5	Submission from Cyprus
E/CN.4/AC.46/1997/CRP.6	Submission from ILO
E/CN.4/AC.46/1997/CRP.7	Submission from IOM
E/CN.4/AC.46/1997/CRP.8	Submission from UNHCR
E/CN.4/AC.46/1997/CRP.9	Submission from the Regional Assoc. for Forced Migration
E/CN.4/AC.46/1997/CRP.10	Submission from the Regional Assoc. for Forced Migration
E/CN.4/AC.46/1997/CRP.11	Submission from IOM
E/CN.4/AC.46/1997/CRP.12	Submission from the English Intern. Assoc. In Lund
E/CN.4/AC.46/1997/CRP.13	Submission from WILPF
E/CN.4/AC.46/1997/CRP.14	Submission from Mexico
E/CN.4/AC.46/1997/CRP.15	Submission from the African Association of Education for Development
E/CN.4/AC.46/1997/CRP.16	Submission from Morocco
E/CN.4/AC.46/1997/CRP.17	Submission from Sin Fronteras
E/CN.4/AC.46/1997/CRP.18	Submission from the International Migrants Rights Watch Committee
E/CN.4/AC.46/1997/CRP.19	Submission from Egypt
E/CN.4/AC.46/1997/CRP.20	Submission from UNHCR
E/CN.4/AC.46/1997/CRP.21	Submission from El Salvador

4. After the conclusion of the first session of the working group, replies have been received from the Governments of Lebanon and the Russian Federation; two replies were received from the Council of Europe.

5. The present report contains a summary of the substantive replies received. Any additional replies will be reproduced in an addendum to the present document.

INFORMATION AND COMMENTS RECEIVED FROM STATES

LEBANON

The Government of Lebanon submitted the following memorandum from the Ministry of Labour:

[28 November 1997
Original: Arabic]

A. With regard to the human rights of migrants, the Ministry of Labour, by virtue of its functions and terms of reference, is concerned with the rights of migrant workers whose employment is regulated by a number of decrees and ordinances such as:

1. Decree No. 17561 of 18 September 1964 regulating the employment of foreigners in Lebanon. This decree specifies the procedures and conditions for:

(a) The granting of prior approval for a foreigner who wishes to enter Lebanon in order to practise a paid or unpaid profession or occupation.

(b) The issue of a work permit, which supplements the said prior approval for the validity of which it is also an indispensable requirement.

2. Ordinance No. 621/1 of 15 December 1995 concerning occupations and professions that are restricted to Lebanese.

3. Ordinance No. 42/2 of 2 February 1970 concerning the classification of foreigners working in Lebanon.

4. The legislative act promulgated on 19 March 1947 empowering the Government to exempt the nationals of some States from payment of the fee for work permits.

This Ministry provides every possible facility, within the limits of the legislation in force, for migrant workers to obtain work permits once it has been established that they would not be working in competition with Lebanese manpower.

B. With regard to the rights of foreign workers under the terms of their contracts of employment, the following points should be noted:

1. The Lebanese Labour Act promulgated in 1946 makes no distinction between Lebanese and foreign employees in regard to wages, holidays, sick leave or other forms of leave.

With regard to trade-union activity, this Act permits foreigners to join a trade union provided that they meet the following general conditions of membership as laid down in the Act:

(a) They must be exercising the profession at the time of their application for membership of the trade union.

(b) They must be over 18 years of age.

(c) They must not have been convicted of a felony or a dishonourable offence.

However, foreign members do not have the right to vote or stand as candidates in elections; they are entitled only to delegate one of their number to represent them and protect their interests in the trade-union council.

2. Article 9, paragraph 3, of the Social Security Act (promulgated in Decree No. 13955 of 26 September 1963) stipulates as follows:

(a) Foreign employees working in Lebanese territory for one or more employers, as well as the employers for whom they are working, shall be subject to all the obligations provided for in the Social Security Act, on the conditions laid down therein, in regard to sickness and maternity insurance, family allowances, industrial accidents and occupational illnesses. However, their employers shall not be subject to the obligations concerning separation-from-service indemnities unless the employees are entitled to enjoy such benefits.

(b) The said foreign employees shall enjoy the benefits provided for in the Social Security Act provided that they hold a work permit in accordance with the laws and regulations in force and that the State to which they belong accords Lebanese nationals equal treatment with its own nationals in regard to social security.

(c) The States that treat Lebanon on a basis of reciprocity in regard to social security and some or all of its benefits, as well as the conditions for the enjoyment thereof by their nationals, shall be specified in decisions taken by the Governing Body of the Fund after consultation with the Ministry of Foreign Affairs and Expatriates.

(d) Members of the family of an insured foreign person who are not permanently resident in the territory of the Lebanese Republic shall not benefit from the social security scheme except in regard to separation-from-service indemnities.

The above-mentioned paragraph 3 does not apply to foreign employees working in the maritime, ports, contracting, construction, freight and off-loading sectors.

Enclosures: (Available with the Secretariat upon request)

Copy of Decree No. 17561.
Copy of Ordinance No. 621/1.
Copy of Ordinance NO. 42/2.
Copy of the legislative act promulgated on 19 March 1947

RUSSIAN FEDERATION

[28 November 1997
Original: Russian]

During the preparations for the Geneva Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the CIS and Relevant Neighbouring States, and also during the implementation of its decisions, the Russian Federation submitted a report on the migration situation in the country and other material describing the obstacles in the way of effective and comprehensive protection of migrants' rights. Parts were published in a UNHCR European series publication on the CIS Conference.

The Programme of Action adopted by the Conference contains a set of recommendations on strengthening, promoting, protecting and respecting migrants' rights in the countries of the region (CISCONF/1996/5).

The report of the meeting of the Steering Group held as part of the follow-up to the Conference (CISCONF/1997/SG2/3), as well as the statements made by participants and other papers presented at the meeting, bear witness to a number of positive advances as regards migration in the region, and the complementary nature of national efforts and international support. In the view of the Russian Federation, there remains an imbalance in these efforts which is not to the credit of the international component, pointing to the need to step up international cooperation. A paper presented at the meeting of the Steering Group on steps taken by the Russian Federation to implement the Programme of Action is attached.

In the context of United Nations efforts to elaborate on the preventive measures, account should be taken of the steps being taken by the Russian Federation in the field of situation forecasting and monitoring. Work by the Russian Federation State Committee on Statistics to prepare various scenarios of immigrant flows into Russia from the CIS and Baltic States to the beginning of the twenty-first century, broken down by Russian region (attached), might serve as examples. In addition, the CIS countries are operating a research council on involuntary migration, based at the Russian Academy of Sciences' Institute of Economic Forecasting, which is engaged in forecasting involuntary displacements of population and drawing up proposals to prevent them.

The Russian Federation considers that there is a great need for more active involvement by the United Nations High Commissioner for Human Rights, in cooperation with the United Nations High Commissioner for Refugees, in efforts to implement the Programme of Action, and in the tasks enumerated in Commission on Human Rights resolution 1997/75 of 18 April 1997.

STEPS TAKEN BY THE RUSSIAN FEDERATION TO IMPLEMENT THE PROGRAMME OF ACTION ADOPTED AT THE GENEVA CONFERENCE, 30-31 MAY 1996

I. DISSEMINATION OF CONFERENCE PAPERS

In the Russian Federation it was acknowledged that a vital priority task after the completion of the Conference was to take extensive steps to bring the results and papers of the forum to the attention of interested executive and legislative bodies and public opinion. For that purpose the Russian Federal Migration Service (FMS) speedily issued a special compilation which was distributed to the appropriate ministries and departments, as well as to constituent elements of the Russian Federation (the local offices of FMS, which resolve migrants' problems directly on the spot). With support from the Carnegie

Moscow Centre, Conference papers were communicated to Russian scientific circles working in the field of migration, and the results of the forum were extensively reviewed jointly by representatives of State bodies and non-governmental organizations. The results of the Conference were sufficiently broadly publicized in the mass media, including the journal Migratsia published by FMS, and also by means of interviews with members of the Russian delegation.

These steps made it possible to draw to the attention of Russian official circles and public opinion as a whole the concern of the world community at the situation regarding migration in the former Soviet Union and its readiness to support the efforts of the CIS countries, in a spirit of solidarity and international cooperation, in finding solutions to migration problems in an approach combining law enforcement, organizational and material dimensions.

II. INSTITUTIONAL FRAMEWORK

A. Policy

Taking into account the current socio-economic situation in the country and the recommendations contained in the final document of the Conference, the Programme of Action, changes were made in the Federal Programme on Migration, which reflects the Russian Federation's migration policy to the year 2000, and later approved by the Russian President.

The federal programme entitled "Children of families of refugees and involuntarily relocating persons" was approved as part of the Presidential programme "Children of Russia".

An outline of State nationalities policy has been adopted.

The governmental commission on Russians abroad has largely completed its work to draw up an outline of Russian State policy on this matter.

The President has approved the "Fundamentals of the Russian Federation's border policy".

Special sections on migration-related aspects have been included in State-wide social programmes on employment, protection of the family, improvement of the status of women and children, etc.

B. Legislation

1. The Russian Federation (Exit Procedure) and Russian Federation (Entry Procedure) Act has been adopted (18 July 1996).

2. A new version of the Refugees Bill has been approved by the State Duma (the lower house of the Parliament of the Russian Federation) in third reading.

3. An Immigration into the Russian Federation Bill has been drafted and submitted to the Government for consideration.

4. A Federal Bill has been prepared on liability of carriers under administrative law for the illegal transport of persons across the border.

5. A Federal Bill on Fingerprinting in the Russian Federation has been drawn up, under which it is planned, inter alia, to take fingerprints of asylum seekers arriving in Russia.

6. Work is continuing on the comprehensive broadening and strengthening of the machinery of the Russian Federal Migration Service, especially at the local and regional levels.

7. A bill on the recruitment and use of foreign labour in the Russian Federation has been examined by the Government and has been sent to the State Duma.

8. Six regulations for the application of the Federal Involuntarily Relocating Persons Act have been drawn up and approved by the Government.

C. Administration

Work is continuing on the comprehensive broadening and strengthening of the machinery of the Russian Federal Migration Service, especially at territory and region levels. Improvement of the professional training of supervisory staff has been emphasized in this work. Specifically, 260 staff of FMS and its local offices participated in practical training and seminars organized under international projects.

With the aim of placing management decisions on a firmer basis and ensuring more efficient implementation, work continued on upgrading the data-processing system used by the migration agencies, in part with support from UNHCR and IOM.

Five new problem-oriented software packages have been introduced at FMS headquarters and in the local migration service offices for the purpose of further developing the Migratsia computer information system and automating information processing in such areas as the organization of immigration monitoring, registration of foreign citizens and stateless persons in the Russian Federation, placement of involuntarily relocating persons, registration of citizens requiring assistance with housing, and efforts to respond to oral and written communications from citizens.

New statistical forms entitled "Information on asylum seekers and refugees", "Information on involuntarily relocating persons" and "Information on the socio-demographic status of involuntarily relocating persons" have been devised and forwarded to Goskomstat for approval.

With the aim of adopting urgent measures to prevent illegal migration in the Russian Federation, a system of immigration monitoring has been set up within FMS and is being refined, involving around 100 posts at the main land, sea and air border entry points. UNHCR and IOM have made major contributions to the provision of computer and other specialized equipment for data processing at these posts.

In 1996, 7.8 million foreigners passed through immigration monitoring posts. More than 10,000 persons with invalid documents were identified and 6,200 persons were deported.

FMS offices have been set up in Russian Federation embassies in Armenia, Latvia, Tajikistan and Turkmenistan to assist in the application of the Russian Federation's migration policy and strengthen cooperation with the migration agencies of the CIS and Baltic countries in addressing migration issues. Talks on this matter are being held with other ex-Soviet republics.

New handbooks of rules and instructions have been drawn up for use in the activities of the local migration service offices in the following areas: development of the system of immigration monitoring posts, surveillance of the recruitment of foreign labour to work in Russia, activities associated with work placement abroad for Russian Federation citizens, the use of budgetary resources earmarked for placement of migrants, and the granting of political asylum in Russia.

In order to cope with large-scale flows of migrants in emergencies, stocks of food and non-food products, medicines and easy-to-build temporary housing have been set up at FMS equipment and supplies centres.

III. OPERATIONAL FRAMEWORK

A. Emergency assistance

In order to assist in the evacuation of citizens from the Chechen Republic during the events of 1996, centres were put into operation to accept and register Russian victims and send them on to other regions of Russia. Temporary accommodation was rented for the purpose.

In 1996 the FMS "hot line" was reactivated to provide data on people who had been forced to leave the Chechen Republic.

Under Government decision No. 510 of 30 April 1997, work was begun on compensating citizens for the loss of housing and property during the resolution of the crisis in the Chechen Republic. A temporary committee was established for the purpose.

B. Repatriation/return

1. Voluntary repatriation of refugees and persons in refugee-like situations

The Russian Federation granted temporary asylum to 38 Albanian citizens in 1997 following the events in Albania; 24 have already expressed a desire to return to their places of permanent residence. Voluntary repatriation is planned with participation and support from UNHCR.

2. Return of internally displaced persons

Citizens who left the Chechen Republic during the conflict have an opportunity to return to their places of permanent residence without hindrance if they so wish.

3. Return of repatriants and persons belonging to formerly deported peoples

The rehabilitation of peoples subjected to repression on the territory of the former USSR is singled out for separate mention in the outline of State nationalities policy in the Russian Federation.

In 1996, in pursuance of the Rehabilitation of Victims of Political Repression Act and the Rehabilitation of Peoples Subjected to Repression Act, about 400 billion roubles (US$ 75 million) was allocated under the federal budget as compensation for damage, provision of benefits, payment of cash compensation for each month of imprisonment and time spent in involuntary treatment at psychiatric establishments, and allowances to compensate individuals of Chechen, Karachai and Balkar nationality.

A State programme for the socio-economic and cultural renaissance of the Balkar people has been adopted. Measures for the cultural rehabilitation of Koreans and Finns feature among the plans of the Russian Federation's Ministry of Culture.

C. Integration

The State has addressed migrants' problems under the Federal Programme on Migration, which has received Presidential approval. In 1996, 521.2 billion roubles (roughly US$ 100 million) was spent on measures under this programme - 23.7 per cent of budgetary allocations for these purposes.

These funds were used first and foremost for minimum social welfare payments to involuntary migrants. A third of the funding under the programme was used for maintenance of involuntary migrants in temporary accommodation. Placement services for migrants accounted for 60 per cent of the funds received (payment of long-term interest-free reimbursable loans to build or acquire housing, financing of housing construction, physical and social infrastructure).

Two extra temporary accommodation centres and three initial reception centres were set up to meet the needs of involuntary migrants.

In 1996 around 1,300 flats were acquired or built for socially disadvantaged protected persons engaged in relocation; housing was built and social and physical infrastructure supplied in 22 compact settlements for migrants with a total population of 22,500. Housing loans were provided to 17,000 families. A one-off cash grant was given to 56,000 involuntary migrants in particular need; 9,000 people had fares paid for themselves and their luggage to their new places of residence. Single disabled persons and pensioners were placed in social welfare institutions, and orphaned children in children's homes.

Job placement services were made available to involuntary migrants. In 1996 about 2,000 new jobs were created, including around 100 in temporary accommodation centres with support from IOM.

Work with people seeking asylum in the Russian Federation continued. A refugee status determination procedure was devised and put into operation. Three temporary accommodation centres were established for applicants awaiting decisions on their requests.

IV. PREVENTION

The Russian Federation State Committee on Statistics has prepared various scenarios of immigrant flows into Russia from the CIS and Baltic States to the beginning of the 21st century, broken down by Russian economic areas.

Ethnological monitoring is being carried out in the CIS and Baltic countries as part of an international project entitled "Settlement of international conflicts in the former Soviet Union" (Russian Academy of Sciences Institute of Ethnology and Anthropology; a group on conflict settlement in Cambridge, Massachusetts; sponsors - Russian Academy of Sciences and Carnegie Corporation, New York). The monitoring system is designed to compile specialist information which may be useful in regulating international relations and preventing ethnic conflicts. The findings are published in a bulletin in Russian and English.

V. COOPERATION

A. Cooperation with CIS countries

1. A draft agreement among CIS countries on cooperation to prevent illegal migration is before the Government for approval.

2. Delegations from CIS States have held consultations on cooperation in the implementation of the Programme of Action of the 1996 Geneva Conference (Kiev, 24 April 1997).

3. An agreement was signed with Belarus on 30 October 1996 for the regulation of the resettlement process and protection of the rights of those involved. Similar agreements had been signed earlier with a number of CIS countries, and also with Latvia and Estonia. A further agreement between Russia and Kazakhstan has been prepared and signed. Talks on this issue with Armenia and Azerbaijan are in their concluding stages. An agreement with the Kyrgyz Republic on regulation of the resettlement process and protection of the rights of those involved was ratified on 19 March 1997.

4. FMS has signed an agreement with the Citizenship and Immigration Department of the Latvian Ministry of Internal Affairs on machinery for the implementation of the agreement between the Government of the Russian Federation and the Latvian Government on regulation of the resettlement process and protection of the rights of those involved.

5. An agreement has been signed between the Government of the Russian Federation and the Kyrgyz Government on working conditions and social protection for migrant workers.

B. Cooperation with other countries and international organizations

1. The Programme of Action of the Geneva Conference is being implemented in close cooperation with the UNHCR regional office and the IOM office in Moscow.

2. A start has been made on the application of the Memorandum of Understanding between the Government of the Russian Federation and the Government of Canada concerning a joint project relating to migration. In November 1996, as a part of the project, 80 officials from the FMS headquarters and local offices received training in refugee status determination, and equipment was supplied for FMS's Bolshevo Training and Methodological Centre.

3. Cooperation with Finland is proceeding successfully (St. Petersburg and Leningrad oblast migration services). Avenues have been sketched out for cooperation with the Netherlands.

4. An agreement has been signed for cooperation between FMS and the German Federal Department for the Determination of Refugee Status. Areas and forms of implementation have been identified.

5. Under the auspices of the Commission of the European Communities (Brussels), through the TACIS programme, the second phase of a project on "Assistance in the development and application of migration policy" (project cost: 500,000 ecus) is under way, and a project on "Enhancing scope for granting migrants appropriate social protection and assistance in social integration" has been approved (project cost: 2 million ecus, implementation in 1997-98).

C. Cooperation with non-governmental organizations and other independent actors

Understanding of the role and significance of non-governmental organizations and other independent actors in protecting the rights and interests of migrants and providing them with humanitarian, legal and other assistance is steadily increasing in Russia.

The principles which govern cooperation between State and non-governmental organizations are set out in Russian legislation.

The Government has encouraged the development of cooperation between State machinery and non-governmental organizations, and also cooperation among non-governmental organizations within the country and at the subregional and international levels.

Links have been strengthened between the Federal Migration Service and religious organizations, in two areas: opportunities to meet the religious needs of migrants, and charitable activity.

Support has been given to activities carried out in Russia by international organizations such as ICRC, IFRC, Caritas and a few others.

In the future, cooperation with NGOs is planned in the context of the building of a welfare State, in which all the institutions of civil society will become partners in shaping social policy.

FMS, the Ministry of Nationalities and Regional Policy and many other ministries and departments have joined the Board of Trustees of the Rossiyane Fund to Support Compatriots Abroad.

INFORMATION AND COMMENTS RECEIVED FROM IGOs

Council of Europe

[Original: English]
[19 November 1997]

The Council of Europe submitted the following Recommendations adopted by its Parliamentary Assembly and the reports on which they were based: *

1. Recommendation 1277(1995) and the report on migrants, ethnic minorities and media;

2. Recommendation 1306 (1996) and the report on migration from the developing countries to the European industrialized countries;

3. Recommendation 1325 (1997) and the reports on traffic in women and forced prostitution in Council of Europe members States;

4. Recommendation 1327 (1997) and the report on the protection and reinforcement of the human rights of refugees and asylum seekers in Europe;

5. Recommendation 1334 (1997) and the report on refugees, asylum-seekers and displaced persons in the Commonwealth of Independent States (CIS).

[8 December 1997]

The Council of Europe further submitted a copy, in English and French, of the monograph "Migrant workers and their families - protection within the European Social Charter" *.

It provides information on the norms of the European Social Charter of 1961 and the case law of the Committee of Independent Experts in relation to the assistance and protection which should be given to migrant workers and their families. It also indicates the improvements made to this level of protection by the revised Charter of 1996.

In the normative field, the Group of Experts may also wish to take into consideration the European Convention on the Legal Status of Migrant Workers, which entered into force on 1 May 1983.

Furthermore, enclosed were publications concerning the Council of Europe's intergovernmental activities in relation, inter alia, to migrant workers and reports on two projects which have been undertaken by the European Committee on Migration, namely the community relations projects and the integration of immigrants: towards equal opportunities. *

Also attached was an explanatory brochure about the work of the European Commission against Racism and Intolerance (ECR), together with the two general policy recommendations issued by ECRI to-date .* While ECRI's work does not focus exclusively on migrant workers, it is clearly of direct relevance to their situation.

Enclosures: (In English and French: available for consultation in the files of the Secretariat.

- European Commission Against Racism and Intolerance: Fact sheet;
- ECRI : General policy - recommendation No. 1;
- ECRI : General policy - recommendation No. 2;
- Activities of the Council of Europe in the migration field;
- 6th Conference of European Ministers responsible for migration affairs;
- Migrant workers and their families: protection within the European Social Charter.